

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

CONTENT & COMMERCE, INC. and
KEVIN DETRUDE,

Plaintiffs/Counterclaim Defendants,

vs.

DONNA CHANDLER and SHOW
COLORS, INC.,

Defendants/Counterclaimants,

and

MY K9 BEHAVES LLC,

Nominal Defendant.

SHOW COLORS, INC. and DONNA
CHANDLER,

Consolidated Plaintiffs,

MY K9 BEHAVES LLC,

Consolidated Derivative Plaintiff,

vs.

KENETH ZWEIGEL, CONTENT &
COMMERCE, INC., KEVIN DETRUDE,
and MY K9 BEHAVES, LLC,

Consolidated Defendants.

Case No.: 1:20-cv-2488-JMS-DLP

MOTION FOR LEAVE TO FILE FIRST
AMENDED COMPLAINT FOR DAMAGES, INJUNCTIVE
RELIEF, DECLARATORY RELIEF AND DEMAND FOR JURY TRIAL

Plaintiffs/Counterclaim Defendants/Consolidated Defendants Content & Commerce, Inc.

(“C&C”) and Kevin DeTrude (“DeTrude”), individually and derivatively on behalf of

Nominal/Consolidated Defendant My K9 Behaves LLC and Consolidated Defendant Keneth Zweigel (“Zweigel”), (collectively, “C&C Parties”), by counsel, and pursuant to Federal Rule of Procedure 15(a)(2) and S.D. Ind. L.R. 15.1 respectfully request that the Court allow the filing of C&C Parties First Amended Verified Complaint for Damages, Injunctive Relief, Declaratory Relief and Demand for Jury Trial (“Amended Complaint”). A copy of the Amended Complaint is attached hereto as **Exhibit A**. In support of this motion, C&C Parties state as follows:

1. On September 25, 2020, C&C Parties commenced the instant case in the Federal District Court for the Southern District of Indiana, Indianapolis Division.

2. On October 19, 2020, the Chandler Parties filed a civil action entitled *Show Colors, Inc., Donna Chandler and Derivative Plaintiff My K9 Behaves, LLC v. Keneth Zweigel, Content & Commerce, Inc., Kevin DeTrude and My K9 Behaves, LLC*, Cause No. 29D04-2010-PL-007352 in the Hamilton County Superior Court in the State of Indiana (the “State Court Action”).

3. On November 6, 2020, C&C Parties removed the State Court Action to the Federal District Court for the Southern District of Indiana, Indianapolis Division.

4. On February 10, 2021, the Court entered the order consolidating the matters under this case number.

5. Rule 15(a) of the Federal Rules of Civil Procedure provides that a party may amend its pleadings with leave of court and leave to amend should be “freely given when justice so requires.”

6. Amendment of C&C Parties’ Complaint is necessary to address and update facts. During the Settlement Conference conducted by this Court, the Chandler Parties raised several questions about the facts as pled in C&C Parties’ original Complaint. This Amended Complaint clarifies and supplements any alleged prior deficiencies addressed by the Chandler Parties.

7. There has been no undue delay in amending C&C Parties' Complaint as C&C parties are requesting to amend their Complaint prior to any discovery being conducted by the parties. Further, no additional claims or causes of action are being asserted in the Amended Complaint, and the only edits are to the factual allegations.

8. C&C Parties have attached a proposed Order for the Court's convenience and pursuant to S.D. Ind. L.R. 15.1.

9. Therefore, C&C Parties respectfully request that the Court grant this motion and allow the filing of C&C Parties Amended Complaint.

WHEREFORE, Plaintiffs/Counterclaim Defendants/Consolidated Defendants Content & Commerce, Inc. and Kevin DeTrude, individually and derivatively on behalf of Nominal/Consolidated Defendant My K9 Behaves LLC and Consolidated Defendant Keneth Zweigel, by counsel, respectfully request that the Court grant this motion and allow the filing of the First Amended Verified Complaint for Damages, Injunctive Relief, Declaratory Relief and Demand for Jury Trial.

Respectfully submitted,

s/William J. Brinkerhoff

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*Counsel for Plaintiffs/Counterclaim Defendants and
Nominal and Consolidated Defendants*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 25, 2021 a copy of the foregoing was filed electronically with the Clerk of the Court via the ECF/CM system which sent notification of such filing to the following:

Nicholas Plopper nick@sploplaw.com

Stephen Plopper splopper@sploplaw.com

s/William J. Brinkerhoff

B.J. Brinkerhoff